

**PROPOSED AMENDMENTS TO
MODEL TRIBAL SECURED TRANSACTIONS ACT**

Substantive Amendments		
Section(s)	Nature of Amendment	Reason For Change
9-106(a)(6), (51)(B), 9-110(a)(2), 9-111(a), (b), 9-301(2)(C), 9-308(b), (c), 9-310(a), (c), 9-315(a)(1), 9-317(a), (c), 9-318(k), 9-402, 9-501(a), 9-502(a), (d) (h), 9-601(a)(1), (d), (e), 9-606, 9-608(a), 9-615(a)(1), (f), 9-617(c), 9-620(d)(3)	Defines and brings within the Act’s scope agricultural liens.	Agricultural liens (a type of statutory lien) were omitted from the original Act (even though included within UCC Article 9) based on the determination that few or no tribes had ag lien statutes. Having now been apprised that several tribes have enacted ag lien statutes, the Committee decided to bring Article 9's rules on ag liens into the Act.
9-106(a)(45B), (49A), 9-316(d)	Defines “publicly searchable record” and “registered organization.	Moves the definition and conforms the Act to UCC Article 9.
9-106(a)(57B), 9-202(d), 9-308(d)	Defines “supporting obligation,” provides that a security interest in collateral automatically attaches to a supporting obligation, and provides for automatic perfection for the security interest in a supporting obligation if the security interest in the supported collateral is perfected.	These provisions, which are included in UCC Article 9, were omitted from the original Act, presumably out of a desire for simplicity. The Committee decided to bring them within the Act.

Substantive Amendments		
Section(s)	Nature of Amendment	Reason For Change
9-115(h)	Expressly provides that no inference should be drawn from the absence of a rule in the Act for consumer-goods transactions about whether PMSI status is lost if the secured obligation is refinanced, other collateral secures the debt, or the collateral secured other debt.	This provision is included in UCC Article 9. The Committee determined that the original Act intended the same, and thus it was appropriate to add this provision.
9-116(b)	Provides safe harbor rules regarding how a security agreement or financing statement may describe the collateral.	These rules are a slightly simplified version of rules in UCC Article 9. They were omitted from the original act presumably out of a desire for simplicity. The Committee decided to bring them within the Act.
9-206	Provides that a seller of receivables retains no rights in the receivables sold but, if the buyer's interest is unperfected, retains the power to transfer the receivables (or an interest in them).	This section is a slightly modified version of UCC § 9-318, which was omitted from the original Act. The Committee decided that the omission was improvident. The modifications are designed to resolve an issue that the UCC version leaves unanswered
9-316(f)	Provides a four-month grace period for perfection in goods acquired by the debtor after a change in governing law based on the debtor becoming subject to the jurisdiction of the enacting tribe.	This provision is intended to achieve the same result as UCC 9-316(h), which was added as part of the 2010 amendments. The language is different to account for the fact that the Act's main choice-of-law rules are substantially different from the main choice-of-law rules in Article 9.

Substantive Amendments		
Section(s)	Nature of Amendment	Reason For Change
9-502(g)	Provides rules on who is authorized to file various types of records.	Incorporates some rules in Article 9 but which the Committee determined were improvidently omitted from the original Act.
9-502(h)(1)	Indicates that filed financing remains effective with respect to collateral transferred by the debtor.	Incorporates the rule of UCC § 9-507(a), which the Committee determined was improvidently omitted from the original Act.
9-503	Provides for the filing of an information statement	The original Act omitted the provision in UCC Article 9 regarding correction statements. The 2010 amendments to Article 9 altered the provision in significant ways. The Committee determined that the modified rule should be included in the Act.
9-620(c)	In dealing with acceptance of collateral after default, requires that the debtor's consent must, if on a form provided by the secured party, be separately signed.	Unlike UCC Article 9, the Act requires the debtor's active consent to an acceptance (not merely the failure to object). To further that policy decision, the Committee decided to add a requirement that the consent term be separately signed, so that a term buried in some notice or other document the debtor signs would not constitute consent.
9-620(f)	Prohibits acceptance of collateral in partial satisfaction of the secured obligation in a consumer transaction.	Incorporates the rule of UCC § 9-620(g), which the Committee determined was improvidently omitted from the original Act.

Substantive Amendments		
Section(s)	Nature of Amendment	Reason For Change
9-626(a), (b)	Applies the absolute bar rule if the secured party fails to comply with specified rules in a consumer transaction; for all other failures applies the rebuttable presumption rule.	The original Act followed UCC Article 9 by leaving the remedy in these situation to the courts. The Committee decided that because most tribes do not extensive jurisprudence on these and similar issues, it was more appropriate to create a statutory rule. The Committee decided to use the absolute bar rule for errors by the secured party that were likely to cause harm and the rebuttable presumption rule for errors that were not likely to result in harm.

Technical Amendments		
Section(s)	Nature of Amendment	Reason For Change
9-106(a)(9)	Modifies definition of “certificate of title.”	Clarify language
9-106(a)(59A)	Creates a definition for “tribe.”	
9-113	Modifies definition of “good faith.”	Corrects an error in the original Act
9-311(a)(2)	Removes reference to a “certificate of title statute,” which is an undefined term.	Adopts a technical amendment to UCC Article 9 made by the 2010 amendments.
9-501(g)	Deletes provision providing for delegation of authority to the filing office.	The Committee determined that this provision might not be appropriate for all enacting tribes, and instead the enactment guide would discuss the issue of delegation.
9-502(b)	Removes some unnecessary content from financing statements.	Adopts for the Act one of the 2010 amendments to UCC Article 9.
9-502(f)	Removes a reference to a “secured party of record.”	The term is defined and used in UCC Article 9, but for simplicity was intended to be omitted from the original Act. This reference was, apparently, unintentionally retained in the original Act.
9-502(h)(2)	Puts into the passive voice the rule regarding the effectiveness of a financing statement following a change in the debtor’s name.	Adopts a technical amendment to UCC Article 9 made by the 2010 amendments.
9-619(a)	Changes “authenticated” to “signed.”	The original Act avoided the term “authenticated,” but improperly left included this one use of the term.